

EXHIBIT BB

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANTHONY MANGANELLO,

Plaintiff,

CASE NO:

07-CV-3644

- against -

THE CITY OF NEW YORK, et al.

Defendants.

May 2, 2008

2 : 12 p.m.

DEPOSITION of CHRISTINE SCACCIA, the
witness herein, taken pursuant to
Court order, and held at the offices
of New York Corporation Counsel, 100
Church Street, New York, New York,
before Mary T. Slavik, RPR, a
Certified Court Reporter and Notary

CHRISTINE SCACCIA

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A P P E A R A N C E S:

OSORIO & ASSOCIATES, LLC

Attorneys for Plaintiff

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White Plains, New York 10601

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NEW YORK CITY LAW DEPARTMENT

OFFICE OF THE CORPORATION COUNSEL

Attorneys for Defendants

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BY: MARK ZUCKERMAN, ESQ.

and

AMY N. OKEVEKE, ESQ.



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IT IS HEREBY STIPULATED AND AGREED by
and between the attorneys for the respective
parties herein, that filing and sealing be
and the same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to the form
of the question, shall be reserved to the
time of the trial.

IT IS FURTHER STIPULATED AND AGREED
that the within deposition may be signed
and sworn to before any officer authorized
to administer an oath, with the same force
and effect as if signed and sworn to before
the Court.

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2 CHRISTINE SCACCIA,
3 having been first duly sworn by the Notary
4 Public, Mary T. Slavik, and stating her
5 address as 198 East 161st Street, Bronx,
6 New York 10451, was examined and testified
7 as follows:

8

9 EXAMINATION BY

10 MR. JOSEPH:

11 Q. Ma'am, can we please have your
12 name and business address for the record?

13 A. Christine Scaccia, S-c-a-c-c-i-a.
14 The address is 198 East 161st Street,
15 Bronx, New York 10451.

16 Q. Between February of 2001 and July
17 of 2004, were you employed by the Bronx
18 County District Attorney's Office?

19 A. Yes, I was.

20 Q. And during that time period, what
21 was your position?

22 A. I was over -- in July of 2001, I
23 went to the grand jury evaluations bureau
24 where I was serving as the deputy chief of



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1 the bureau in homicide.

2 Q. And what does the deputy chief for
3 the grand jury evaluations do?

4 A. Well, we would authorize homicide
5 arrests based on any new homicides that
6 occurred within the county, and we also
7 supervise the presentation of homicide
8 presentations into a grand jury panel.

9 Q. What procedure, if any, existed in
10 2001 for the authorization of a homicide
11 arrest?

12 A. If there was a homicide that had
13 taken place we would, one, first of all, be
14 notified that someone had been killed. If
15 there was a suspect who was either
16 identified or in custody once witnesses
17 were spoken to and interviewed, the
18 officers on the case would call the DA's
19 office to either further take statements if
20 the defendant was willing to or just
21 process the arrest.

22 Q. And what steps, if any, had to be
23 done, taken, for a suspect to either be
24 placed in custody or remain in custody



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1 between February of 2001 and May of 2001?

2 MR. ZUCKERMAN: I just object to
3 form. You can answer if you can.

4 A. Okay. Well, you would need a
5 combination of a number of things. You
6 would have to be able to prove, one, that
7 the crime was committed. You would have to
8 have a suspect either identified by
9 civilian witnesses or making incriminating
10 statements, implicating themselves. You
11 have a combination of either one,
12 generally, you have probable cause to make
13 an arrest.

14 Q. Now, aside from those two factors,
15 would it therefore be fair to say that
16 there would be no probable cause to make an
17 arrest?

18 MR. JOSEPH: Object to the form.

19 A. It would depend on what the
20 circumstances were, I mean obviously.

21 Does that mean I can answer?

22 MR. ZUCKERMAN: Yes.

23 Q. You can answer unless he tells you
24 not to.



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1 A. okay. If you had a statement
2 either by the suspect or an ID by an
3 eyewitness, or in some circumstances
4 circumstantial evidence would result in
5 probable cause to make an arrest.

6 Q. And what role, if any, did you
7 play in terms of presentation of cases to
8 grand juries for homicide investigations
9 between February of 2001 and May of 2001?

10 A. On occasion I was present with a
11 junior assistant watching them and
12 supervising them presenting cases, and on
13 occasion, I, myself, was assigned to
14 homicide investigations to put into the
15 grand jury.

16 Q. Following the presentation to the
17 grand jury, what responsibility, if any,
18 did you have for the prosecution of the
19 case between that time period?

20 MR. ZUCKERMAN: Talking about
21 Manganiello?

22 MR. JOSEPH: I'm asking what her
23 general responsibilities were during
24 this time period.



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1 MR. ZUCKERMAN: Do you
2 understand?

3 A. The way the office was structured
4 then, the homicides -- after going through
5 a grand jury phase -- if there was an
6 indictment would have been sent out to a
7 trial division. So after the grand jury
8 paperwork was done, if the case was not
9 assigned to me, I would have no
10 involvement.

11 Q. And for what reason or reasons
12 would a case be assigned to you?

13 A. Staffing issues, high profile
14 cases, it would just depend.

15 Q. Okay. In 2001, did you become
16 involved in the prosecution of Anthony
17 Manganiello?

18 A. Yes.

19 Q. How?

20 A. Once again, acting first in the
21 capacity as deputy chief and grand jury, I
22 was made aware of the case and then an
23 informant was brought to my attention.

24 Q. When were you first made aware of



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1 the case?

2 MR. ZUCKERMAN: what day or when
3 in the process?

4 Q. Approximately what day were you
5 made aware of the -- strike that.

6 At some point were you made aware
7 that Anthony Manganiello was a suspect in
8 the shooting of Albert Acosta?

9 MR. ZUCKERMAN: Object to the
10 form. You can answer.

11 A. Yes.

12 Q. Approximately when was the first
13 time you were made aware that Anthony
14 Manganiello was a suspect in the shooting
15 of Albert Acosta?

16 MR. ZUCKERMAN: Object to the
17 form. You can answer.

18 A. Probably the day following the
19 incident.

20 Q. Would that be approximately
21 February 13th, 2001?

22 A. Yes.

23 Q. And how did you become aware of
24 Anthony Manganiello?



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1 A. We have assistants who are on call
2 24 hours a day, or I should say 24 hours at
3 a time who are responsible for responding
4 to homicide scenes and taking any kind of
5 information down that's pertinent. Either
6 just a body or if someone is arrested they
7 would process the case. So that assistant
8 reports every morning, following the end of
9 their shift, what, if anything, took place
10 on the preceding shift.

11 Q. Was it ADA Adondis who made a
12 report to you concerning Anthony
13 Manganiello?

14 A. I believe he was the assistant on
15 duty.

16 Q. And did you speak to ADA Adondis
17 or did you review paperwork or something
18 else?

19 A. Probably a combination of both.

20 Q. And on February 13th, 2001, did
21 you become aware that ADA Adondis had felt
22 that there was no probable cause to arrest
23 Anthony Manganiello for the shooting or
24 murder of Albert Acosta?



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1 MR. ZUCKERMAN: Object to the
2 form.

3 A. I don't think ADA Adondis'
4 feelings had anything to do with it. I
5 know there was a decision not to take
6 Mr. Manganiello into custody at that time.

7 Q. And can you tell me who made that
8 decision?

9 MR. ZUCKERMAN: Not to take him
10 into custody?

11 Q. Correct.

12 A. To tell you the truth I don't know
13 if it was a combination of the Police
14 Department, District Attorney's decision or
15 if it ultimately was with the District
16 Attorney's Office.

17 Q. Okay. Well, can you tell me who
18 was involved in the decision not to take
19 Anthony Manganiello into custody?

20 MR. ZUCKERMAN: Just don't guess.

21 If you know, certainly tell him.

22 A. I cannot give you a specific
23 individual's name. What I can tell you is
24 the setup. If Mr. Adondis was the



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1 assistant on 24-hour beeper, above him is a
2 supervisor who wears the beeper for a week
3 and generally would make a call as to
4 whether or not to process an arrest. Above
5 the supervisor is the chief of homicide, Ed
6 Taldy, and I was his deputy. So, it was
7 either one or a combination of those
8 people.

9 Q. Now, on February 12th of 2001 or
10 February 13th of 2001, did you become aware
11 of a decision not to take Anthony
12 Manganiello into custody?

13 A. Yes, I know he wasn't arrested
14 that day.

15 Q. And can you tell me why the
16 decision was made not to take him into
17 custody on February 12th or February 13th
18 of 2001?

19 A. For further investigation.

20 Q. Was there a determination that
21 there was insufficient probable cause to
22 arrest Anthony Manganiello on February 12th
23 and/or 13th for the homicide of Albert
24 Acosta?



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1 MR. ZUCKERMAN: Object to form.

2 A. I don't know if that's exactly how
3 I would phrase it, but I believe that there
4 was more investigative steps that we wished
5 the Police Department to take before we
6 authorized the arrest.

7 Q. And was there an arrest authorized
8 on February 12th or February 13th of 2001?

9 A. No.

10 Q. And for what reason was an arrest
11 not authorized?

12 A. To take further investigative
13 steps.

14 Q. Were you -- what further
15 investigative steps, if any, were deemed
16 appropriate or necessary --

17 MR. ZUCKERMAN: Object to form.

18 Q. -- to take Anthony Manganiello
19 into custody at some point in time
20 following February 13th, 2001?

21 MR. ZUCKERMAN: I object to the
22 form. You can answer.

23 A. What steps - I want to be clear -
24 after that did we take?

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1 Q. At the point in time that a
2 decision was made not to take Anthony
3 Manganiello into custody because of further
4 investigative steps, what were the
5 investigative steps that were deemed
6 necessary to be taken?

7 MR. ZUCKERMAN: Object to form.

8 You can answer.

9 A. One of those steps would have been
10 interviewing the witnesses ourselves. The
11 witnesses who were present on the scene the
12 day before. There were search warrants
13 that were being executed, and I believe
14 there was forensic testing that we wanted
15 to accomplish.

16 Q. Let's start with the forensic
17 testing. What forensic testing did you
18 want to be accomplished, if any?

19 MR. ZUCKERMAN: Object to the
20 form.

21 A. I believe that there was a
22 substance found on Mr. Manganiello's
23 uniform jacket that seemed to have been
24 consistent with the location of where



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1 Officer Acosta was killed. That was
2 relayed to us by officers on the scene.
3 And I believe that Officer Acosta's
4 clothing had some of the same type dusty
5 white substance on it. So I know for sure,
6 off the top of my head, that was one of the
7 forensic questions that we had pending.

8 Q. Was also the test concerning
9 gunshot residue of Mr. Manganiello's hands
10 and/or jacket one of the forensic tests you
11 were waiting to get back?

12 A. I think the hand -- I know one was
13 done on his hand, but I don't know if the
14 results can be told immediately by the
15 person performing the test, but I know
16 those tests were performed. The jacket may
17 have been sent to the lab. I don't know if
18 you get an immediate response when you're
19 swabbing someone's hand.

20 Q. When did you learn of the results
21 of the swabs of the hands, of
22 Mr. Manganiello's hands?

23 A. It wasn't too long after the
24 incident, I don't remember a date.



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1 Q. Was it prior to April 20th of
2 2001?

3 A. Prior to the grand jury proceeding
4 I would think so, yes.

5 Q. And what were the results of the
6 swab to Mr. Anthony Manganiello's hand for
7 gunshot residue?

8 A. To the best of my recollection it
9 was negative.

10 Q. And do you recall a test for
11 gunshot residue to Anthony Manganiello's
12 jacket?

13 A. I know one was done.

14 Q. And to the best of your
15 recollection --

16 MR. ZUCKERMAN: Are you done with
17 your answer?

18 A. I don't believe that the results
19 were positive on that either.

20 Q. That's my next question.

21 MR. ZUCKERMAN: Just allow her to
22 finish.

23 Q. To the best of your recollection,
24 what were the results of the gunshot



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1 residue test to Anthony Manganiello's
2 jacket?

3 A. I believe they were also negative.

4 Q. What was the significance, if any,
5 of a negative gunshot residue test to
6 Mr. Manganiello's hand and jacket which was
7 taken on February 12, 2001 in a case
8 involving a shooting?

9 MR. ZUCKERMAN: I object to the
10 form. You can answer.

11 A. Actually none because the test is
12 unreliable.

13 Q. Okay. What search warrants were
14 you waiting for?

15 A. I believe there was a search
16 warrant executed on Mr. Manganiello's
17 personal vehicle.

18 Q. And did the results of that search
19 warrant provide any evidence which in any
20 way tied Anthony Manganiello to the
21 shooting of Albert Acosta?

22 A. Directly, no.

23 Q. How about indirectly?

24 A. There were items that were



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1 retrieved during the course of the search
2 warrant. I believe there was an imitation
3 pistol, some handcuffs, some permits of
4 sorts. There were unusual items recovered
5 from them but nothing criminally linking
6 him to Mr. Acosta's death.

7 Q. Now, it is fair to say that
8 Mr. Acosta was not killed with an imitation
9 pistol; correct?

10 A. No.

11 Q. So, in what way, indirectly, would
12 an imitation pistol link Anthony
13 Manganiello to the shooting of Albert
14 Acosta, if any?

15 MR. ZUCKERMAN: Object to form.

16 A. If I recall, and you'll have to
17 forgive me if I'm mistaken because it's
18 been quite some time, I think within the
19 vehicle there was also some sort of
20 documentation indicating that
21 Mr. Manganiello owned pistols or used to go
22 to a pistol range. And in his official
23 capacity as a Parkchester security officer,
24 he's not licensed to carry a gun.



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1 Q. Are you sure about that?

2 MR. ZUCKERMAN: Sure about what?

3 Q. That Mr. Manganiello was not
4 licensed to carry a firearm.

5 A. As part of his job in Parkchester
6 he was not an armed security guard is what
7 I mean. There was either a permit or some
8 sort of paperwork, I think, tending to
9 connect him to a firing range, I want to
10 say somewhere in the confines of
11 Westchester County, but as I said, this is
12 awhile ago.

13 Q. Were you aware that Anthony
14 Manganiello was actually a State Park
15 Police Officer?

16 A. Not that I recall as I sit here
17 today, no.

18 Q. And if he was a State Park Police
19 officer and had a valid license for a
20 pistol permit, in what way would that tie
21 him to the shooting of Albert Acosta?

22 MR. ZUCKERMAN: Object to the
23 form.

24 A. Well, it would certainly give him



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1 the opportunity to possess a weapon such as
2 the one that Mr. Acosta was killed with.

3 Q. In what way would that
4 differentiate Mr. Manganiello from any
5 other police officer that's licensed to
6 carry a weapon?

7 MR. ZUCKERMAN: Object to form.

8 A. That being the only factor it
9 wouldn't; taken in conjunction with
10 everything else we were finding out about
11 the case it would.

12 Q. On February 12th and February
13 13th, 2001, did you come into possession of
14 any documents from the New York City Police
15 Department concerning Anthony Manganiello
16 and/or the investigation into the homicide
17 of Albert Acosta?

18 MR. ZUCKERMAN: Object to the
19 form.

20 A. At that point in time the only
21 thing I would have had access to were
22 possibly copies of any police vouchers that
23 were prepared in connection with the case;
24 a complaint report or a UF61, as the Police



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1 Department form is called, and whatever
2 complaint follow-ups had been prepared at
3 that time.

4 Q. Complaint follow-ups, are you
5 referring to forms known as DD5's?

6 A. Yes.

7 Q. At any point did you take
8 possession or see the original handwritten
9 notes of interviews with witnesses on the
10 scene in this case?

11 A. At some point I did see them.

12 Q. And when did you see them?

13 A. It would have been early on in the
14 investigation.

15 Q. And where were you when you saw
16 them?

17 A. Physically or who did I work for?

18 Q. Where were you physically when you
19 saw them?

20 A. Somewhere in the confines of the
21 Bronx District Attorney's Office.

22 Q. Did you -- strike that.

23 How did you come into possession
24 of these handwritten interview notes, not



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1 the DD5's, but the original handwritten
2 interview notes?

3 A. They would have been part of the
4 original police file that was being
5 maintained by Detective Agostini.

6 Q. Were you ever provided copies of
7 those original notes?

8 MR. ZUCKERMAN: Sorry?

9 Q. The original interview notes, were
10 you ever provided with copies of those?

11 A. I do not know for sure whether I
12 had some of those notes that were
13 eventually turned over to the defense.

14 Q. Do you have a recollection --
15 strike that.

16 Did Mr. Agostini ever provide you
17 with the entire case folder, the homicide
18 case folder for Mr. Acosta's death for
19 copying?

20 MR. ZUCKERMAN: Object to form.

21 A. There was a time that I had access
22 to the entire case folder, and that would
23 have been probably at the grand jury
24 stage. I did not maintain possession of



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1 that folder between the grand jury and
2 trial, as you're probably aware.

3 Q. What do you mean by "you had
4 access to the file"?

5 MR. ZUCKERMAN: I object to form.

6 You can answer.

7 A. I mean when a detective comes to
8 see you regarding a case they generally
9 bring their file with them.

10 Q. And were you ever provided with
11 copies of the original handwritten notes
12 taken from the witnesses on the scene on
13 February 12th, 2001?

14 MR. ZUCKERMAN: Object to form.

15 A. As I stated, I believe at some
16 time I had some of them. There were others
17 that I did not have.

18 Q. Did a number of these written
19 interview notes go missing?

20 MR. ZUCKERMAN: Object to form.

21 A. I believe what went missing was
22 the spiral notebook that Detective Agostini
23 would have maintained, among other things.

24 Q. What other things to the best of



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1 your recollection went missing?

2 A. I remember it being described as a
3 box containing the notes, containing the
4 actual DD5's themselves which I had copied
5 and turned over to counsel, that's how we
6 have them for trial.

7 I believe that one of the things
8 that we were not able to secure in the end
9 was Mr. Manganiello's Parkchester security
10 memo book. I don't know if there were
11 miscellaneous items from Mr. Acosta in that
12 box as well. I want to say that maybe his
13 shield or hat were in that box, but I'm not
14 one hundred percent certain.

15 Q. Now, can you tell me what -- would
16 it be fair to say that every handwritten
17 interview that you had you turned over to
18 defense counsel?

19 A. Yes.

20 Q. And if Mr. Manganiello's defense
21 counsel did not have a handwritten note of
22 a witness interview, would that mean you
23 were not provided with that note?

24 MR. ZUCKERMAN: Object to form.



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1 A. Yes.

2 Q. Was there ever a point in time
3 when Detective Agostini copied all of the
4 handwritten notes in the spiral notebook
5 and provided you a copy of it?

6 MR. ZUCKERMAN: Object to form.

7 A. Not that I can recall, no.

8 Q. Did you ever ask him to do that?

9 A. I think I asked him to do that
10 when we were preparing to go to trial,
11 which is how it became known that the box
12 that I was looking for was no longer where
13 it had been left.

14 Q. And what -- how did you first --
15 how did you become aware that a box was
16 missing?

17 A. When I --

18 Q. Let me rephrase that.

19 How did you become aware that the
20 case, the homicide case file for Albert
21 Acosta was missing?

22 MR. ZUCKERMAN: Object to form.

23 A. Because we began preparing for
24 trial.



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1 Q. And as part of the trial, were
2 there -- were you obligated to provide
3 what's known as Rosario material to the
4 defense?

5 A. Yes.

6 MR. ZUCKERMAN: Object to the form
7 of the last question. The answer
8 stands.

9 Q. And was it your understanding that
10 the box which was lost contained what was
11 known as Rosario material?

12 A. Yes, and I believe there was a
13 little hearing about what happened to the
14 box during the course of the trial or
15 during pretrial hearings.

16 Q. What did you say to Detective
17 Agostini and what did he say to you when
18 you first learned that the box was missing?

19 MR. ZUCKERMAN: Object to form.

20 You can answer.

21 A. Again, doing this from memory I
22 seem to be under the impression today as I
23 sit here, that when the case was getting
24 ready for trial Detective Agostini was not



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1 working at the 43rd Precinct anymore. I
2 had called him and told him we were going
3 to court and he went back to the precinct
4 to try to get his paperwork and file to
5 bring down to the office, and that's when
6 we became aware that it was not in the spot
7 that he had left it.

8 Q. Where did he tell you he left it?

9 A. I want to say that there is a room
10 in the 43rd Precinct squad room contained
11 within it, that was -- I don't know if they
12 were using it as a file room or -- it was a
13 room within a room, and I believe he said
14 he had left it in there on top of the file
15 cabinet in a clearly marked box.

16 Q. Did he tell you that he left it in
17 the locker room?

18 A. That might be what that room was.

19 Q. Were you aware that the 43rd
20 Precinct had a storage room specifically
21 for homicide case files?

22 A. I know that the 43rd Precinct had
23 case files in a number of places.

24 Q. Now, did you receive all of the



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1 DD5's in this case at one time or at
2 various times during the course of the
3 investigation?

4 A. It would have to be at various
5 times while they became prepared.

6 Q. Did Mr. Agostini, prior to the
7 file going missing, ever provide you with
8 the complete homicide case file for it to
9 be copied --

10 MR. ZUCKERMAN: Object to form.

11 Q. -- concerning Mr. Manganiello?

12 A. No, I don't think for those
13 purposes. I had asked him to bring it down
14 prior to when it became an issue.

15 Q. On February 12th or February 13th,
16 2001, did you agree with the assessment
17 that Mr. Manganiello should not be arrested
18 or charged for the homicide investigation
19 at that point?

20 MR. ZUCKERMAN: Object to form.

21 A. I guess the short answer would be,
22 I was comfortable with it and wanted more
23 investigative steps taken, yes.

24 Q. On February 12th or February 13th,



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1 2001, based on the information that you had
2 at that point, did you feel there was
3 probable cause to arrest, authorize an
4 arrest of Anthony Manganiello to be
5 prosecuted for the homicide of Albert
6 Acosta?

7 MR. ZUCKERMAN: Object to form.

8 A. I'm sorry, say it again.

9 Q. On February 12th or February 13th
10 of 2001, when you first became aware of
11 this case --

12 MR. JOSEPH: Read back my last
13 question.

14 (Requested question was read back
15 by the court reporter.)

16 MR. ZUCKERMAN: Object to form.

17 Q. On February 13th, 2001, did you
18 feel there was sufficient evidence to
19 authorize an arrest of Anthony Manganiello
20 for the homicide of Albert Acosta?

21 MR. ZUCKERMAN: Object to form.

22 A. I think there may have been
23 probable cause but because the case was a
24 circumstantial case, I think everyone was



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1 more comfortable holding off on making an
2 arrest.

3 MR. ZUCKERMAN: Are you done with
4 your answer?

5 A. And that's why we decided to take
6 further investigative steps.

7 Q. Try and let her finish.

8 MR. JOSEPH: I thought she was.

9 Q. Was there any admission by
10 Mr. Manganiello that he was in any way
11 involved in the shooting of Albert Acosta?

12 MR. ZUCKERMAN: Object to form.

13 A. No, not that I can recall, no.

14 Q. Was there any civilian witness who
15 identified Anthony Manganiello as being
16 involved in the shooting death of Albert
17 Acosta?

18 MR. ZUCKERMAN: Object to form.

19 A. There were witnesses who
20 identified him and described his conduct
21 which supplied circumstantial evidence that
22 he was involved in the death of Albert
23 Acosta.

24 Q. And what witness was that or



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1 witnesses was that?

2 A. There were officers that were
3 present on the scene after the discovery of
4 Officer Acosta. There was a maintenance
5 worker on the scene prior to the discovery
6 of Mr. Acosta. There was -- at what point
7 do you want me to stop because then other
8 people became known to the Police
9 Department?

10 Q. Well, I'm asking you about
11 February 12th, February 13th.

12 A. Then it would have been the
13 civilian that was present before and then
14 the officers present after.

15 Q. Now, by the civilian, are you
16 talking about Walter Cobb?

17 A. Yes, I am.

18 Q. Were you made aware on February
19 12th or February 13th, of any inconsistent
20 statements by Walter Cobb?

21 A. No.

22 Q. Were you ever made aware that
23 Walter Cobb said he heard the shots and he
24 thought they came from outside of the



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1 building?

2 MR. ZUCKERMAN: Object to form.

3 A. I don't remember that.

4 Q. Let me ask you to take a look at
5 what has been marked previously as Exhibit
6 25 with a date of 12/20/07, and direct your
7 attention to paragraph two and I'll show
8 counsel first.

9 MR. ZUCKERMAN: Paragraph what?

10 MR. JOSEPH: Two on the bottom.

11 A. I've read it.

12 Q. Have you seen this prior to
13 today?

14 A. I would have, yes. I don't
15 remember the day I saw it, but this is the
16 police report in connection with the case.

17 Q. Did you see it prior to April 20th
18 of 2001?

19 A. Yes.

20 Q. Okay. Did you see it on or about
21 February 12th or February 13th of 2001?

22 A. If not then, shortly thereafter
23 probably.

24 Q. Did Officer Agostini provide you



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1 with any information that caused you to
2 initiate a prosecution against Anthony
3 Manganiello?

4 MR. ZUCKERMAN: Object to form.

5 A. Did he provide me with any
6 information?

7 Q. Yes.

8 A. No, he provided us with witnesses
9 which resulted in the prosecution of
10 Mr. Manganiello.

11 Q. What witnesses were those?

12 A. Walter Cobb. There were, I
13 believe, two individuals that were brought
14 forth from a pizza store in a surrounding
15 area. I don't remember the names off the
16 top of my head, but I know one or both of
17 them testified.

18 Q. Would that be Tartone and Booth?

19 A. Yes.

20 Q. What other witnesses, if any, did
21 Mr. Agostini provide?

22 A. I think that was it. The other
23 witness came from another source within law
24 enforcement.



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1 Q. Would that be Derek Parker?

2 A. That would be the person that
3 brought him forward, yes. The witness was
4 Terrance Alston.

5 Q. And how did Mr. Parker bring
6 forward Terrance Alston?

7 A. Detective Parker was Mr. Alston's
8 handler for lack of a better term.

9 Mr. Alston had been an informant of his in
10 the past. They had come into contact with
11 each other. I don't know if it was at
12 Rikers Island or just because Mr. Alston
13 reached out to Derek Parker. He relayed
14 information to Detective Parker and
15 Detective Parker notified the Bronx.

16 MR. ZUCKERMAN: The Bronx DA?

17 A. The Bronx DA, I'm sorry.

18 Q. What makes you think that --
19 strike that.

20 Can you tell me the source of your
21 belief that Mr. Alston had been an
22 informant for Mr. Parker in the past?

23 MR. ZUCKERMAN: Can you read that
24 back?



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1 (Requested question was read back
2 by the court reporter.)

3 MR. ZUCKERMAN: Object to form.

4 If you understand you can answer.

5 A. That would have come from
6 Mr. Parker and/or Mr. Alston.

7 Q. Were you aware that Derek Parker
8 testified in a deposition that this case
9 was his first dealing with Mr. Alston?

10 A. Would I be surprised that he said
11 that?

12 Q. Were you aware that he testified
13 in a deposition basically to the opposite
14 of what you just said?

15 MR. ZUCKERMAN: Object to the
16 form.

17 A. No, I was not aware of that. But
18 I know Detective Parker is the one that
19 brought me Mr. Alston.

20 Q. Did Mr. Robert Martinez or
21 Detective Martinez provide you with any
22 information that caused you to initiate a
23 prosecution against Anthony Manganiello?

24 MR. ZUCKERMAN: Object to form.



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1 A. Detective Martinez?

2 Q. Correct.

3 A. No, because as I sit here today I
4 can't even recall what his involvement in
5 this case was.

6 Q. How about Lieutenant Scott, did
7 Lieutenant Scott provide you with any
8 information that caused you to initiate a
9 prosecution against Anthony Manganiello?

10 A. No.

11 Q. How about John McGovern or
12 Sergeant McGovern?

13 A. No.

14 Q. What information did Agostini
15 provide you with that caused you to
16 initiate a prosecution against Anthony
17 Manganiello?

18 MR. ZUCKERMAN: Object to form.

19 A. Again, it wasn't Detective
20 Agostini providing information, it was
21 Detective Agostini providing witnesses who
22 had given statements regarding the events
23 that resulted in Mr. Acosta's death.

24 Detective Agostini was not either



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1 a witness nor did he take any sort of
2 confession admission from Mr. Manganiello,
3 so, he could offer no insight to the manner
4 of Mr. Acosta's death.

5 Q. Did Mr. Agostini tell you that
6 Anthony Manganiello was evasive while he
7 was being questioned?

8 A. I remember he said that I think at
9 some point he refused to answer pedigree
10 information, and was either inconsistent or
11 evasive about what appeared to be a fresh
12 cut on one of his fingers.

13 Q. And did that information cause or
14 did that information cause you in part to
15 initiate a prosecution against Anthony
16 Manganiello for the shooting of
17 Mr. Acosta?

18 MR. ZUCKERMAN: Object to form.

19 A. No, actually despite that
20 information I believe -- that was -- that
21 all occurred on the day that he was
22 released.

23 Q. When for the first time did you
24 meet with Alston?



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1 MR. ZUCKERMAN: Alston?

2 Q. Terrance Alston.

3 MR. ZUCKERMAN: You want a date
4 from her?

5 Q. To the best of your recollection,
6 how soon after the shooting did you meet
7 with Terrance Alston or learn of Terrance
8 Alston's existence?

9 MR. ZUCKERMAN: I object to the
10 form. I mean, do you want a date,
11 where in the process, I mean?

12 Q. Approximately, how many days
13 following the shooting of Albert Acosta,
14 did you become aware that Mr. Terrance
15 Alston may have had some information
16 pertinent or relative to the shooting of
17 Albert Acosta?

18 A. I would put it in between -- we
19 went to the grand jury in April and this
20 happened in February. I don't remember it
21 happening in the initial days following
22 Mr. Acosta's death, but I don't really have
23 a sense if it could have been as long as a
24 month or not, I don't remember, sorry.



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1 Q. Prior to -- strike that.

2 Did Terrance Alston testify before
3 the grand jury?

4 A. Yes, he did.

5 Q. And was that approximately April
6 2001?

7 A. Yes.

8 Q. Prior to him testifying, were you
9 ever made aware that Terrance Alston had
10 lied to Detective Agostini about a witness
11 named Johnny Baker selling Anthony
12 Manganiello a gun?

13 A. I believe --

14 MR. ZUCKERMAN: I object to form.

15 A. I believe that the name that
16 Mr. Alston gave Detective Agostini was not
17 the individual's government or true name,
18 but there was -- that individual did exist.

19 Q. Well, do you have a recollection
20 of Terrance Alston -- strike that.

21 Do you have a recollection of
22 learning that Terrance Alston told
23 Detective Agostini that a gentleman named
24 Johnny Baker sold Anthony Manganiello a



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1 gun?

2 MR. ZUCKERMAN: Object to form.

3 A. Yes, that is the name he used in
4 the initial report by Detective Agostini.

5 Q. And when did you become aware of
6 that, was that before the case was
7 presented to the grand jury or afterwards?

8 A. Did I become aware that the
9 individual -- he's saying an individual
10 sold Manganiello a gun or the kid's name is
11 not Jamel Baker or whatever he said
12 initially.

13 Q. Let me ask you this. Prior to
14 authorizing the arrest of Anthony
15 Manganiello, did you -- were you aware that
16 Terrance Alston had told lieutenant --
17 Detective Agostini that a gentleman named
18 Johnny Baker had sold Anthony Manganiello a
19 gun, when in fact, the gentleman named
20 Johnny Baker did not sell Anthony
21 Manganiello a gun?

22 MR. ZUCKERMAN: Object to form.

23 A. I would say I was aware of the
24 contents of that report probably before the



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1 grand jury.

2 Q. And, by the way, did you ever
3 inform the grand jury or make it known to
4 the grand jury that Terrance Alston had
5 lied about a person selling Anthony
6 Manganiello a gun?

7 MR. ZUCKERMAN: Object to form.

8 A. Once again, I believe that
9 Terrance Alston did not give the person's
10 true name to the detective. I do know that
11 that person existed.

12 Q. Well, by not giving Detective
13 Agostini the, quote, unquote, "true name,"
14 would that be a lie?

15 MR. ZUCKERMAN: Object to form.

16 A. It is a lie.

17 Q. Did you ever inform the grand jury
18 that Terrance Alston lied to Detective
19 Agostini?

20 A. No.

21 Q. Is there any reason you didn't
22 make the grand jury aware of that?

23 A. That evidence was never put before
24 the grand jury. I never tried to elicit



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1 information to the grand jury that anyone
2 sold Officer Manganiello a gun. Terrance
3 Alston was put into the grand jury for an
4 entirely different purpose.

5 Q. Did you have any concerns about
6 Terrance Alston's credibility prior to
7 putting him in the grand jury?

8 A. After interviewing him regarding
9 these subjects, no.

10 Q. And did the fact that Terrance
11 Alston had lied to Detective Agostini cause
12 you any concern about his credibility?

13 A. No.

14 Q. Okay. Did you ever question
15 Terrance Alston about his lie to Detective
16 Agostini about Johnny Baker selling Anthony
17 Manganiello a gun?

18 MR. ZUCKERMAN: Object to form.

19 A. Well, I mean at some point we did
20 have a conversation because then we found
21 out that individual's real name, and he
22 said that he did it because he was trying
23 to keep the kid out of trouble.

24 Q. I'm sorry, can you repeat that?



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1 A. Terrance Alston gave the first
2 name that you say he gave to Detective
3 Agostini because he did not want to involve
4 that person or get that person in trouble.

5 Q. So he decided to get an innocent
6 person in trouble instead of the gentleman
7 who he claims sold Anthony Manganiello the
8 gun; is that correct?

9 MR. ZUCKERMAN: Object to the
10 form.

11 A. Is that Mr. Manganiello's
12 position?

13 Q. I'm asking you if that's what your
14 understanding was --

15 A. Not at all.

16 Q. -- after speaking with Terrance
17 Alston?

18 Did you ever -- when did you
19 question Terrance Alston about this lie?

20 MR. ZUCKERMAN: Object to form.

21 You want a date?

22 Q. Correct.

23 A. It was sometime between when I
24 became aware of it and when he was killed.

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1 Q. When did you become aware that
2 Terrance Alston had made a
3 misrepresentation to Detective Agostini
4 about selling -- a gentleman named Johnny
5 Baker selling Anthony Manganiello a gun?

6 MR. ZUCKERMAN: Object to form.

7 A. I don't recall.

8 Q. Did you become aware that Terrance
9 Alston had lied prior to authorizing the
10 arrest of Anthony Manganiello?

11 MR. ZUCKERMAN: Object to the
12 form.

13 A. Though I cannot specify the date,
14 I would say that probably, yes. Mr. Alston
15 was not alive too much longer after the
16 presentation.

17 Q. On February 12th, 2001, was
18 Terrance Alston actually in Rikers Island?

19 A. I believe he was incarcerated.

20 Q. Did Detective Agostini ever raise
21 any concerns with you that Terrance Alston
22 was playing games to get out of jail, as he
23 put it?

24 MR. ZUCKERMAN: Object to form.



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1 A. I don't remember if we ever had
2 that conversation or not.

3 Q. okay. Did Lieutenant Scott ever
4 discuss the fact that Alston had lied to
5 you?

6 A. I don't remember having any
7 discussions with Lieutenant Scott.

8 Q. Do you recall having discussions
9 with a Detective Abbott concerning this
10 case?

11 A. Detective Abbott was involved --
12 I'm trying to think what capacity he was
13 involved in. I don't know if he was
14 Agostini's partner at the time or if he was
15 the detective from Bronx Homicide assigned
16 to this case. I'm sure we had
17 conversations, I just don't recall.

18 Q. Did you ever have any
19 conversations with Detective Abbott
20 concerning Mr. Alston?

21 MR. ZUCKERMAN: Object to form.

22 A. Not that I remember.

23 Q. Did you ever have any
24 conversations with Mr. Parker about



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1 Terrance Alston and/or the fact that he had
2 lied?

3 A. I had conversations with Derek
4 Parker about Terrance Alston, but I don't
5 know if we had a conversation about him
6 lying.

7 Q. Can you tell me the sum and
8 substance about the conversation you had
9 with Mr. Parker concerning Terrance
10 Alston?

11 A. It was that he had knowledge of
12 Mr. Alston. Mr. Alston brought to his
13 attention the incident between himself and
14 Mr. Manganiello, where Mr. Manganiello had
15 tried to hire him to kill another security
16 guard. At some point, and I don't remember
17 if it was after my first meeting with
18 Mr. Alston or -- I don't remember at what
19 point, but at some point Mr. Alston tells
20 me that Mr. Manganiello had gone as far as
21 providing him with a key to the basement
22 area of Parkchester, which are not
23 accessible to tenants, and are only
24 possessed by employees. And that that was



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1 the key he was to use to go to this
2 location that the incident was supposed to
3 take place at.

4 And I think it was Detective
5 Parker who facilitated getting that key
6 from Mr. Alston's property and providing it
7 to the District Attorney's Office.

8 Q. So you actually had a key?

9 A. Yes.

10 Q. Where is that key now?

11 A. Somewhere in property.

12 Q. Was that key ever provided to
13 Mr. Manganiello's criminal defense
14 attorney?

15 A. No, because Mr. Alston was dead by
16 the time this case went to trial.

17 Q. And where is that -- can you still
18 put your hands on that key?

19 A. I have been trying to locate the
20 people, meaning the District Attorney's
21 office folder, and the property that went
22 along with it. Because of our own
23 sometimes inadequate filing system, I have
24 not been able to do that as of yet.



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1 Q. When was the last time you saw the
2 District Attorney's file concerning the
3 prosecution of Anthony Manganiello?

4 A. Probably a few days after the
5 acquittal when I packed it up to be filed
6 away.

7 Q. And is there a system in place to
8 preserve the files of prosecutions after
9 they have been closed?

10 MR. ZUCKERMAN: Object to form.

11 A. There are, and over the course of
12 the last several years the facilities in
13 which these files are stored have been
14 moved on a number of occasions.

15 MR. ZUCKERMAN: Are you done with
16 your answer?

17 THE WITNESS: Yes.

18 Q. And is it your testimony that to
19 date you have been unable to locate the
20 prosecution file -- strike that.

21 Is it fair to say that up until
22 the present you have been unable to locate
23 the District Attorney's file concerning the
24 prosecution of Anthony Manganiello?



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1 A. Well, mind you, I really just
2 started looking for it now that this has
3 come up.

4 Q. Is that a yes?

5 Is it fair to say that up until
6 today you have been unable to locate the
7 District Attorney's file for the
8 prosecution of Anthony Manganiello?

9 A. Well, that is trying to make it
10 sound like the file has been lost for
11 years. I mean the file could be exactly
12 where it's supposed to be. I have not been
13 able to find the spot where it has been
14 moved to.

15 Q. When did you start looking for
16 this file?

17 A - Probably Tuesday evening.

18 Q. Were you aware that several months
19 ago the file had been subpoenaed and
20 there's been no response to that subpoena?

21 A No. I wasn't.

22

23 (Scaccia Exhibit 1, GRAND JURY

24 MINUTES was marked for



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1 identification.)

2

3 Q. Can you please take a look at
4 Exhibit Number 1.

5 A. Okay.

6 Q. Do you recognize this document?

7 A. The grand jury minutes from the
8 case presentation.

9 Q. Was it the grand jury minutes for
10 the case presentation concerning the case
11 against Anthony Manganiello?

12 A. Yes. The investigation into the
13 death of Albert Acosta.

14 Q. Now, did Mr. Alston testify before
15 the grand jury that Mr. Manganiello
16 approached him in October of 2000
17 concerning killing -- murdering a security
18 guard for hire?

19 MR. ZUCKERMAN: Just take your
20 time and review it.

21 A. Did you say 2001?

22 Q. October of 2000.

23 A. Yes.

24 Q. Let me show you what was

